



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 31, 1995

Mr. S. Stephen Hilmy
Attorney for Del Mar College
Gary, Thomasson, Hall & Marks
P.O. Box 2888
Corpus Christi, Texas 78403

OR95-736

Dear Mr. Hilmy:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31241.

Del Mar College (the "college") received a request for the "12th day roll" for a microbiology and clinical pathology course taught in the Fall of 1993. You claim that the requested information is exempt from disclosure under section 552.026 of the Government Code and the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g. We have considered the exceptions you claimed and have reviewed the document at issue.

Section 552.026 provides as follows:

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Section 552.026 of the Government Code governs the release of student records by an educational institution that receives federal funds under any program the federal government administers. See Open Records Decision No. 480 (1987) at 3 (quoting Open Records Decision No. 427 (1985)). We assume that the college receives federal funds under at least one program that the federal government administers.

FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information (other than directory information) contained in a student's education records to anyone but certain enumerated federal, state, and local officials and institutions, unless otherwise authorized by the student's parent.¹ 20 U.S.C. § 1232g(b)(1). "Education records" consist of those records that contain information directly related to a student and that an educational agency or institution or a person acting for such agency or institution maintains. *Id.* § 1232g(a)(4)(A).

For the purposes of FERPA, the term "directory information" relating to a student includes: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height if the student is a member of an athletic team, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution the student attended. *Id.* § 1232g(a)(5)(A). An educational agency or institution that makes public directory information must comply with the notice provisions in 20 U.S.C. § 1232g(a)(5)(B).

This office agrees that the college must withhold the students' social security numbers, which the university uses as student identification numbers, pursuant to FERPA. See 34 C.F.R. § 99.3 (defining "personally identifiable information" as containing student identification numbers). However, the remaining information contained on the class roster you have submitted to this office appears to consist solely of "directory information" that is open to the public under the Open Records Act. Open Records Decision No. 244 (1980). Consequently, the college must withhold only the students' social security numbers and must release the remaining information to which no appropriate objection is filed.²

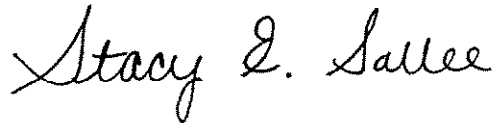
We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records.

¹Other "school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests" have a special right of access to education records. 20 U.S.C. § 1232(b)(1)(A). However, this special right of access does not apply in this instance because the educational institution has determined that the requestor does not have a legitimate educational interest in the requested information.

²The roster is for a course taught in the Fall of 1993. We note that the notice provision does not apply to former students. 34 C.F.R. § 99.37(b).

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Stacy E. Sallee". The signature is written in a cursive style with a large, stylized 'S' at the beginning.

Stacy E. Sallee
Assistant Attorney General
Open Government Section

SES/LRD/rho

Ref.: ID# 31241

Enclosure: Submitted document